SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Tuesday 26th October, 2004 | No. 407

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 2/LD/2004 Dated: 15.10.2004

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of October, 2004 is published for general information.

THE SIKKIM TRANSPORT INFRASTRUCTURE DEVELOPMENT FUND ACT, 2004
(ACT NO.2 OF 2004)
AN
ACT

to establish a fund and to develop, maintain or improve transport infrastructure in Sikkim and for such purpose to levy and collect cess on sale of motor spirit commonly known as petrol and high speed diesel oil and to provide for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to create a fund and to develop, maintain or improve transport infrastructure in Sikkim and for such purpose to levy and collect cess on sale of motor spirit commonly known as petrol and high speed diesel oil and to provide for matters connected therewith or incidental thereto;

BE it enacted by the Legislature of Sikkim in the Fifty-fifth Year of the Republic of India as follows:-

CHAPTER -I
Preliminary

Short title, extent and commencement.

1. (1) This act may be called the Sikkim Transport Infrastructure Development Fund Act, 2004.

(2) It extends to the whole of Sikkim

(3) It shall come into force on the 1st day of August, 2004

Definitions.

2. In this Act, unless the context otherwise requires:-

(a) "cess" means the cess levied and collected under section 4;

(b) "fund" means the Sikkim Transport Infrastructure Development Fund established under sub-section (1) of section 5;

(c) "goods" means the goods specified in column (2) of the First Schedule;

(d) "notification" means a notification published in the Official Gazette;

(e) "prescribed" means prescribed by rules made under this Act:

(f) "Schedule" means a Schedule appended to this Act;

(g) "State Government" means the Government of Sikkim.

CHAPTER-II
Authorities for the purposes of levy and collection of cess

Cess authorities.

3. (1) The State Government shall, by notification, appoint an authority (hereinafter referred to as the prescribed authority), and shall appoint such other person being the officers of the State Government, to assist the prescribed authority as the State Government may think fit for carrying out the purposes of this Act.

(2) The prescribed authority and the persons appointed under sub-section (1) to asisist him shall have jurisdiction over the whole of Sikkim.

(3) The persons appointed to assist the prescribed authority shall exercise such powers as may be delegated to them by the prescribed authority.

(4) The prescribed authority and the persons appointed to assist him under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

(5) No suit, prosecution or other legal proceedings shall lie against the prescribed authority or the persons appointed under sub-section (1) to assist him for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

CHAPER -III
Incidence and levy of cess, rate of cess and payment of cess.

Incidence of cess,rate thereof, payment of cess and furnishing return.

4. (1) There shall be levied and collected, for the purposes of this Act, a cess on every sale in Sikkim by any person of goods, specified in column (2) of the First Schedule, which have not been purchased by such person in Sikkim, at the rate specified in the corresponding entry in Column (3) of the said Schedule.

(2) The cess leviable under sub-section (1) shall be payable by the person who sells such goods in Sikkim.

(3) The person referred to in sub-section(2) shall furnish a return to such authority in such form, in such manner and at such interval,

as may be prescribed and such person, in the prescribed manner, pay the full amount of cess before furnishing such return.

(4) The cess leviable under sub-section (1) shall be in addition to any tax or duty, by whatever name called, leviable on sale of the goods under any other law for the time being in force in Sikkim.

CHAPTER - IV

Sikkim Transport Infrastructure Development Fund

Establishment of fund.

5. (1) There shall be established for the purposes of this Act a fund to be called the Sikkim Transport Infrastructure Development Fund

(2) The fund shall be under the control of the State Government and there shall be credited to the following:-

(a) any sum of money credited under section 6;

(b) any sum of money credited under section 7;

(c) any sum realized by the State Government in carrying out its functions under this Act or in the administration of this Act;

(d) any fund provided by the Central Government for the creation, development, maintenance or improvement of transport infrastructure;

(3) The balance to the credit of the fund shall not lapse at the end of the financial year.

Crediting of cess to the fund.

6. The proceeds of the cess levied under section 4 shall first be credited to the Consolidated Fund of Sikkim and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the fund from time to time after deducting the expense of collection, for being utilized exclusively for the purpose of this act.

Grants and loans by State Government.

7. The State Government may, after due appropriation made by the State Legislature by law in this behalf, credit in the fund, by way of grants or loans such sums of money as the State Government may consider Necessary.

Utilisation of Fund.

8. The fund shall be utilized for:-

(a) the creation, development, maintenance or improvement of transport infrastructure, including roads, bridges and flyovers;

(b) the improvement of traffic operations and road safety;

(c) the purposes of such other projects as may be prescribed.

CHAPTER - V

Management of the Fund

Maintenance of accounts.

9. The State Government shall maintain proper accounts and other relevant records in such form and in such manner, as may be prescribed.

Administration of fund.

10. The State Government shall administer the fund and take such decisions regarding investment in projects of transport infrastructure, traffic operation and road safety as it considers necessary.

CHAPTER - VI
Miscellaneous

Power to make rules.

11. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under any provisions of this Act are required to be prescribed, or to be provided for, by rules.

Amendment of Sikkim Sales Tax Act, 1983.

12. The Sikkim Sales Tax Act, 1983 shall be amended in the manner specified in the Second Schedule to this Act.

The First Schedule
(See section 4.)

Sl. No	Name of goods	Rates of cess
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol	Rupee one per litre.
2.	High speed diesel oil	Rupee one per litre.

The Second Schedule
(See section 12.)
Amendment in the Sikkim Sales Tax Act, 1983.

1. In the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the said Act), in section 2, in clause (n), after the words "less any sum allowed as cash discount", the words and figures "or any sum charged as cess leviable under the Sikkim Transport Infrastructure Development Fund Act, 2004", shall be inserted.

2. In the said Act, in section 6, for the words, "any goods or class of goods may be taxed", the words, "tax/cess on any goods or class of goods, as applicable, may be realized", shall be substituted.

By Order of the Governor.

Tashi Wangdi, SSJS
Legal Remembrancer-cum-Secretary Law.
(File No. 16(82) LD/97-2004

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SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | Saturday 1st April, 2006 | No. 94

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 24 /LD/2005. Date: 31st March 2006.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 24th day of March, 2006 is hereby published for general information:-

THE SIKKIM TRANSPORT INFRASTRUCTURE DEVELOPMENT FUND (AMENDMENT) ACT, 2006

(ACT No. 3 OF 2006)

AN
ACT

further to amend the Sikkim Transport Infrastructure Development Fund Act, 2004.

Be it enacted by the Legislature of Sikkim in the Fifty-seventh Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Transport Infrastructure Development Fund (Amendment) Act, 2006.
(2) It extends to the whole of Sikkim.
(3) It shall come into force at once.

Amendment of section 4

2. In the Sikkim Transport Infrastructure Development Fund Act, 2004,-

(i) in sub-section (1) of section 4,-

(a) after the words "a cess on every sale" and before the words "in Sikkim", the words "or self consumption, or utilization for commercial purpose or consumption in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities, by importing from outside the State, by making purchase or otherwise," and,-

(b) after the words "by any person" and before the words "of goods", the words "or the State or Central Government including department of other States situated in Sikkim, any local body, any authority or Corporation, established by or under any statute and any State or Central Government undertaking", shall respectively be inserted;

(ii) in sub-section (2) of section 4,-

(a) after the words " the person" and before the words "who sells", the words ""or the State or Central Government including department of other States situated in Sikkim, any local body, any authority or Corporation, established by or under any statute and any State or Central Government undertaking", and,-

(b) after the words "who sells" and before the words "such goods in Sikkim", the words "or consumes for self or utilizes for commercial purpose or consumes in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities,", shall respectively be inserted;

(iii) In sub-section (3) of section 4, after the opening words "The person" and before the words "referred to", the words "or the Government or the body or the organizations" shall be inserted.

(iv) In sub-section (4) of section 4, after the words "leviable on sale" and before the words "of the goods", the words "or self consumption or utilization for commercial purpose or consumption in the process of manufacturing of goods, or execution of works contract, or operation of machine, equipment or motor vehicles employed for any commercial activities", shall be inserted.

(v) For the existing First Schedule, the following Schedule shall be substituted, namely:-

"The First Schedule
(See section 4)

Sl. No	**Name of goods**	**Rates of Cess**
(1)	(2)	(3)
1.	Motor spirit commonly known as petrol	Rupees two per litre.
2.	High-speed diesel oil	Rupees two per litre".

By Order

R.K.Purkayastha,SSJS
Legal Remembrancer-Cum Secretary,
Law Department
File No. 16(82)LD/P/2005

SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok | **Thursday 21st April, 2011** | **No. 199**

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 5/LD/P/11 **Dated: 21/4/2011**

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 30th day of March, 2011 is hereby published for general information:-

THE SIKKIM TRANSPORT INFRASTRUCTURE DEVELOPMENT FUND (AMENDMENT) ACT, 2011

(ACT NO. 5 OF 2011)
AN
ACT

further to amend the Sikkim Transport Infrastructure Development Fund Act, 2004.

Be it enacted by the Legislature of Sikkim in the Sixty-first year of the Republic of India, as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Transport Infrastructure Development Fund (Amendment) Act, 2011

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

Insertion of new CHAPTER-IIA and sections 3A, 3B, 3C and 3D

2. In the Sikkim Transport Infrastructure Development Fund Act, 2004, (hereinafter referred to as the "said Act") , after section 3, under CHAPTER-II and before Chapter-III, the following new CHAPTER and section 3A, section 3B section 3C and section 3D shall be inserted, namely:-

"CHAPTER-IIA

Registration

3A.(1) Any person or authority or corporation, established by or under any statute or any State or Central Government undertaking, who is liable to pay cess under this Act, shall register under the Act within two months from the commencement of business or

commercial activities, in the Form and manner as may be prescribed.

(2) Any person or authority or corporation, or any undertaking referred to in sub-section (1) whose business or commercial activities has commenced before this section came into force, shall register under this Act within two months from the date of enforcement of this section or enforcement of the rules made thereunder, whichever is later.

(3) The prescribed authority may allow registration beyond the time prescribed in sub-section (1) and sub-section (2), for a reasonable span of time if he is satisfied that the applicant was prevented to register himself due to valid reasons:

Provided that any person who fails to register in terms of this section shall be liable for penalty not exceeding rupees five hundred per day of default that shall be imposed after providing an opportunity of being heard to such person.

Assessment, refund and appeal

3B. If the prescribed authority is not satisfied with the accounts of purchases, sales, returns furnished and payments of cess made by the person registered or accounts furnished and payments made by an unregistered person, if any, such prescribed authority may make summary assessment on such person within three years from the date of returns furnished or payment of cess made, and for this purpose the prescribed authority may cause the person to produce all relevant and necessary books of accounts or may make best judgment assessment if the person fails to produce books of accounts:

Provided that any excess payments of cess made by any person under this Act shall after assessment,be refunded or appropriated to any outstanding dues or future liability of cess :

Provided further that an appeal against any of the order of the sub-ordinate prescribed authority shall lie to the next higher prescribed authority within 45 (forty five) days of passing of the order against which appeal is intended to be preferred:Provided also that any appeal preferred as per second Proviso shall be disposed off by the Appellate Authority within a period of one year from the date of filing of such appeal or within such extended time as the prescribed authority allows which shall not be more than six months at one instance.

Production of documents, inspection of business premises and penalty for non-production of documents

3C. It shall be lawful for any prescribed authority to demand by notice, any of the documents, from any registered or unregistered persons, pertaining to the purchases and sales of the goods liable for cess under this Act, which are maintained under the Sikkim Sales Tax Act, 1983 or the Sikkim Value Added Tax Act, 2005 or any other law governing the tax on sales and purchases of goods, or to inspect business premises of such persons at any reasonable time but not before sun rise and after sun set:

Provided that the prescribed authority may after providing an opportunity of being heard, impose a penalty not exceeding rupees twenty- five thousand on the person who fails to furnish the documents referred to in this section.

Declaration of goods made in the Checkposts under other Acts to be deemed as declared under the Act

3D. The declaration during transportation of consignments of goods made in the Check Posts set up in Sikkim, in the Forms and manners as prescribed in the Sikkim Sales Tax Act, 1983, or the Sikkim Value Added Tax Act, 2005, or under any other law for the time being in force, shall be deemed to have been declared for the purpose of this Act, too."

3. In the said Act, in section 4, after sub-section (1), the following sub-section shall be inserted, namely,-

Insertion of sub-section (1A) in section 4

"(1A). The State Government, if satisfied to do so in public interest, may by notification amend, add to or alter the items specified or revise the rate or rates of cess prescribed in the First Schedule to this Act."

Insertion of Proviso to sub-section (3) of section 4

4. In the said Act, in sub-section (3) of section 4, the following Proviso shall be inserted, namely:-

"Provided that if any person required to furnish returns with proof of payments under this sub-section fails to do so without reasonable cause, he shall be liable for penalty not exceeding rupees fifty per day of default in filing returns and/or making payments that shall be imposed after providing such person an opportunity of being heard."

Amendment of First Schedule

5. In the said Act, in the First Schedule, for the existing rates of cess as specified in column (3), the following shall be substituted, namely;-

" **Rupees three per litre**.",

"**Rupees two and fifty paisa per litre**."

(R.K. Purkayastha) SSJS
L.R-cum-Secretary,
Law Department.
File No. 16 (82) LD/77/11